

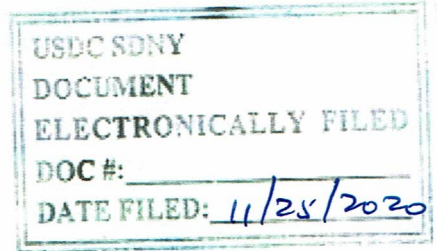


U.S. Department of Justice

United States Attorney
Southern District of New York

United States District Courthouse
300 Quarropas Street
White Plains, New York 10601

November 24, 2020

**BY EMAIL**

The Honorable Nelson S. Román
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: *United States v. Yosef Ziegler*, 19 Cr. 916 (NSR)

Dear Judge Román:

The Government writes with the consent of defense counsel to provide an update with respect to the above-captioned case. The parties have reached an agreed-upon resolution, which the Government anticipates will involve the filing of a superseding information and a guilty plea. Accordingly, we would like to request that Your Honor either schedule a time for the waiver of indictment and consent to filing of an information, arraignment on the information and guilty plea, or refer these proceedings to the United States Magistrate Judges.

If Your Honor refers this matter to the Magistrate Judges, the parties respectfully request that Your Honor make a finding by “so ordering” this letter, that the plea in this case satisfies the standards under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) for the proceeding to take place via video or teleconferencing.

As Your Honor is aware, on March 27, 2020, the CARES Act was enacted into law, which provided that, subject to certain requirements, video teleconferencing and telephone conferencing may be used in enumerated criminal proceedings in certain circumstances during the COVID-19 pandemic. With respect to felony pleas and sentencing hearings, Section 15002(b) of the CARES Act allows for the proceedings to be held via video teleconferencing and telephone conferencing when the district judge “in a particular case finds for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice.” *See also* 20 Misc. 176 (CM), SDNY Standing Order No. M10-468 (authorizing the use of video or telephone conferencing for felony pleas under Rule 11 and felony sentencings under Rule 32 only upon a finding by the presiding judge that the “proceeding cannot be further delayed without serious harm to the interests of justice.”) (Mar. 30, 2020).

In this case, the parties respectfully submit that one reason that the plea cannot be further delayed without serious harm to the interests of justice is that the victims in this case have an interest in a prompt resolution and the prompt issuance of a restitution order.

The Government further requests that the Court exclude time in the above-captioned matter under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), from November 30, 2020 to December 18, 2020 to allow the parties to prepare for and schedule an arraignment on an superseding information and change of plea in this case. The Government respectfully submits that the requested exclusion of time would serve the ends of justice and outweigh the best interests of the public and the defendant in a speedy trial, as the parties expect that it will allow for a pre-trial resolution of this matter. Attached is a proposed order excluding time under the Speedy Trial Act. The Government has consulted defense counsel with respect to this request, and defense counsel has no objection.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney

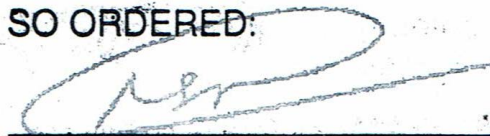
By: /s/ Courtney L. Heavey
Courtney L. Heavey
Assistant United States Attorney
(914) 993-1927

Cc: Susan Necheles, Esq. and Gedalia Stern, Esq. (counsel for the defendant)

It is the Court's determination that in order to prevent serious harm to the interests of justice, Defendant can and should be permitted to change his plea by video teleconference or by telephone conference before a Magistrate Judge of this Court pursuant to the CARES Act § 15002(b)(2)(A). Accordingly, the parties' request is granted and the plea hearing for Defendant be conducted by video teleconference or by telephone conference (if video conference is unavailable) before this Court or a Magistrate Judge at a date and time mutually convenient to the Court and all parties concerned.

Dated: Nov. 25, 2020

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE